

Senate File 2379

S-5131

1 Amend Senate File 2379 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

5 RETALIATION

6 Section 1. Section 562B.32, subsection 1, paragraph d, Code
7 2022, is amended to read as follows:

8 d. For exercising any of the rights and remedies pursuant
9 to this chapter or chapter 216.

10 Sec. 2. Section 562B.32, subsection 2, Code 2022, is amended
11 to read as follows:

12 2. If the landlord acts in violation of subsection 1
13 of this section, the tenant is entitled to the remedies
14 provided in section 562B.24 and has a defense in an action for
15 possession. In an action by or against the tenant, evidence
16 of a complaint within ~~six months~~ one year prior to the alleged
17 act of retaliation creates a presumption that the landlord's
18 conduct was in retaliation. The presumption does not arise
19 if the tenant made the complaint after notice of termination
20 of the rental agreement. For the purpose of this subsection,
21 "presumption" means that the trier of fact must find the
22 existence of the fact presumed unless and until evidence is
23 introduced which would support a finding of its nonexistence.

24 DIVISION II

25 RENTAL AGREEMENTS

26 Sec. 3. Section 562B.7, subsection 10, Code 2022, is amended
27 to read as follows:

28 10. "Rent" means a payment to be made to the landlord under
29 the rental agreement, including base rent, utilities, late
30 fees, and other payments made by the tenant to the landlord
31 under the rental agreement.

32 Sec. 4. Section 562B.10, subsection 5, Code 2022, is amended
33 to read as follows:

34 5. Rental agreements shall be for a term of one year unless
35 otherwise specified in the rental agreement. Rental agreements

1 shall be canceled by at least ~~sixty~~ ninety days' written notice
2 given by either party. A landlord shall not cancel a rental
3 agreement solely for the purpose of making the tenant's mobile
4 home space available for another mobile home.

5 Sec. 5. Section 562B.14, subsection 7, Code 2022, is amended
6 to read as follows:

7 7. Each tenant shall be notified, in writing, of any rent
8 increase at least ~~sixty~~ ninety days before the effective date.
9 Such effective date shall not be sooner than the expiration
10 date of the original rental agreement or any renewal or
11 extension thereof.

12 Sec. 6. EFFECTIVE DATE. This division of this Act, being
13 deemed of immediate importance, takes effect upon enactment.

14 Sec. 7. APPLICABILITY. This division of this Act applies to
15 rent increases first noticed under chapter 562B occurring on or
16 after the effective date of this division of this Act.

17 DIVISION III

18 DISCLOSURE OF UTILITY CHARGES

19 Sec. 8. Section 562B.14, subsection 6, Code 2022, is amended
20 to read as follows:

21 6. a. The landlord or any person authorized to enter into
22 a rental agreement on the landlord's behalf shall provide a
23 written explanation of utility rates, charges and services to
24 the prospective tenant before the rental agreement is signed
25 unless the utility charges are paid by the tenant directly to
26 the utility company.

27 b. Tenants shall be notified of any increase in utility
28 rates or charges in the manner set forth in subsection 7 for
29 rent increases, unless the landlord does not receive at least
30 ninety days prior notice of such increase from the utility
31 provider, in which case no prior notice of the increase from
32 the landlord to the tenant is required for the increase to be
33 effective.

34 c. Nothing in this chapter shall authorize a landlord to
35 meter a premises contrary to applicable law, rule, or tariff,

1 or assess a utility charge to the tenant contrary to applicable
2 law, rule, or tariff.

3 DIVISION IV

4 WRONGFUL FAILURE TO PROVIDE ESSENTIAL SERVICES

5 Sec. 9. NEW SECTION. 562B.23A Wrongful failure to supply
6 running water or essential services.

7 1. If contrary to the rental agreement or section 562B.16
8 the landlord deliberately or negligently fails to supply
9 running water or other essential services, the tenant may give
10 written notice to the landlord specifying the breach and may
11 do one of the following:

12 a. Procure reasonable amounts of water or other essential
13 services during the period of the landlord's noncompliance and
14 deduct the actual and reasonable cost from the rent.

15 b. Recover damages based upon the diminution in the fair
16 market value of the mobile home space.

17 c. Recover any rent already paid for the period of the
18 landlord's noncompliance which shall be reimbursed on a pro
19 rata basis.

20 2. If the tenant proceeds under this section, the tenant may
21 not proceed under section 562B.22 as to that breach.

22 3. The rights under this section do not arise until the
23 tenant has given notice to the landlord or if the condition was
24 caused by the deliberate or negligent act or omission of the
25 tenant, a member of the tenant's family, or other person on the
26 premises with the consent of the tenant.

27 Sec. 10. EFFECTIVE DATE. This division of this Act, being
28 deemed of immediate importance, takes effect upon enactment.

29 DIVISION V

30 DENIAL OF RENTAL OR REFUSAL OF SALE

31 Sec. 11. Section 562B.19, subsection 3, paragraph c, Code
32 2022, is amended to read as follows:

33 c. Deny any resident of a manufactured home community
34 or mobile home park the right to sell that person's mobile
35 home at a price of the person's own choosing, but may reserve

1 the right to approve the purchaser of such mobile home as a
2 tenant but such permission may not be unreasonably withheld,
3 provided however, that the landlord may, in the event of a
4 sale to a third party, in order to upgrade the quality of
5 the manufactured home community or mobile home park, require
6 that any mobile home in a rundown condition or in disrepair be
7 removed from the manufactured home community or park within
8 sixty days. If the landlord does not approve the purchaser as
9 a tenant, the landlord shall provide the purchaser with written
10 notice of such denial and the general reason for the denial,
11 but the landlord shall not be required to provide a specific
12 reason for the denial.

13 DIVISION VI

14 PROHIBITED RENTAL AGREEMENT PROVISION — HOME EQUIPMENT

15 Sec. 12. Section 562B.11, subsection 1, Code 2022, is
16 amended by adding the following new paragraph:

17 NEW PARAGRAPH. e. Agrees to modify the mobile home,
18 manufactured home, or modular home in a way that would
19 substantially impair the ability of the tenant to move the
20 home from the mobile home space, unless such modification is
21 required by federal law, including but not limited to the
22 model manufactured home installation standards, 24 C.F.R. pt.
23 3285, the manufactured home construction and safety standards,
24 24 C.F.R. pt. 3280, or the manufactured home procedural and
25 enforcement regulations, 24 C.F.R. pt. 3282, or by state or
26 local law, the manufacturer's installation instructions, any
27 requirement arising from the landlord's financing of the home
28 or of the mobile home park or manufactured home community in
29 which the home is located, or unless such modification is
30 otherwise necessary for the safe and proper installation of the
31 home.

32 DIVISION VII

33 LANDLORD SALES

34 Sec. 13. NEW SECTION. 562B.17A Sale of mobile home by
35 landlord.

1 transactions made on or after the effective date of this
2 division of this Act.

3 DIVISION IX
4 REGULATION BY COUNTIES AND CITIES — CONTINUING NONCONFORMING
5 USES

6 Sec. 17. Section 335.3, subsection 2, Code 2022, is amended
7 to read as follows:

8 2. a. ~~When~~ Except as provided in paragraph "b", when there
9 is a replacement of a preexisting manufactured, modular, or
10 mobile home with ~~another~~ any other manufactured, modular, or
11 mobile home containing no more than the original number of
12 dwelling units, or a replacement of a preexisting site-built
13 dwelling unit with a manufactured, modular, or mobile home or
14 site-built dwelling unit, within a manufactured home community
15 or a mobile home park, the board of supervisors shall not
16 adopt or enforce any ordinance, regulation, or restriction,
17 or impose any conditions on the replacement home, home site
18 upon which the home sits, or the owner's property that were not
19 required of the preexisting home, home site, or property, that
20 would prevent the continuance of the property owner's lawful
21 nonconforming use that had existed relating to the preexisting
22 home unless any of the following apply:, home site upon which
23 the home sat, or the owner's property.

24 b. Paragraph "a" does not apply if any of the following
25 conditions exist:

26 a. (1) A discontinuance is necessary for The replacement
27 of the preexisting home with the replacement home would
28 substantially increase the risk to the safety of life or
29 property.

30 b. (2) The property owner has discontinued and abandoned
31 the nonconforming use has been discontinued for the period
32 of time established by ordinance, unless such discontinuance
33 is caused by circumstances outside the control of the
34 property owner. The period of time so established shall be
35 not less than one year. For purposes of this subparagraph,

1 circumstances outside the control of the property owner
2 include floods, fires, destructive thunderstorm events such
3 as derechos and tornadoes, and similar catastrophic events
4 causing widespread or localized severe property damage. For
5 purposes of this subparagraph, a property owner shall not be
6 considered to have discontinued and abandoned the nonconforming
7 use if the property owner demonstrates that the applicable home
8 site continues to be available for use as a home site for a
9 replacement home.

10 ~~c.~~ (3) The replacement results in the overall nature and
11 character of the present use being substantially or entirely
12 different from the original lawful preexisting nonconforming
13 use.

14 ~~d.~~ (4) The replacement results in an obstruction to a
15 shared driveway or shared sidewalk providing vehicular or
16 pedestrian access to other homes and uses unless the property
17 owner makes modifications to such shared driveway or sidewalk
18 that extinguishes such obstruction or the effects of such
19 obstruction.

20 Sec. 18. Section 414.1, subsection 1, paragraph c, Code
21 2022, is amended to read as follows:

22 c. (1) ~~When~~ Except when provided in subparagraph (2), when
23 there is a replacement of a preexisting manufactured, modular,
24 or mobile home with another any other manufactured, modular,
25 or mobile home containing no more than the original number of
26 dwelling units, or a replacement of a preexisting site-built
27 dwelling unit with a manufactured, modular, or mobile home or
28 site-built dwelling unit, within a manufactured home community
29 or a mobile home park, the city shall not adopt or enforce any
30 ordinance, regulation, or restriction, or impose any conditions
31 on the replacement home, home site upon which the home
32 sits, or the owner's property that were not required of the
33 preexisting home, home site, or property, that would prevent
34 the continuance of the property owner's lawful nonconforming
35 use that had existed relating to the preexisting home unless

1 ~~any of the following apply~~, home site upon which the home sat,
2 or the owner's property.

3 (2) Subparagraph (1) does not apply if any of the following
4 conditions exist:

5 ~~{1}~~ (a) A discontinuance is necessary for The replacement
6 of the preexisting home with the replacement home would
7 substantially increase the risk to the safety of life or
8 property.

9 ~~{2}~~ (b) The property owner has discontinued and abandoned
10 the nonconforming use has been discontinued for the period of
11 time established by ordinance, unless such discontinuance is
12 caused by circumstances outside the control of the property
13 owner. The period of time so established shall be not less
14 than one year. For purposes of this subparagraph division,
15 circumstances outside the control of the property owner
16 include floods, fires, destructive thunderstorm events such as
17 derechos and tornadoes, and similar catastrophic events causing
18 widespread or localized severe property damage. For purposes
19 of this subparagraph division, a property owner shall not be
20 considered to have discontinued and abandoned the nonconforming
21 use if the property owner demonstrates that the applicable home
22 site continues to be available for use as a home site for a
23 replacement home.

24 ~~{3}~~ (c) The replacement results in the overall nature and
25 character of the present use being substantially or entirely
26 different from the original lawful preexisting nonconforming
27 use.

28 ~~{4}~~ (d) The replacement results in an obstruction to a
29 shared driveway or shared sidewalk providing vehicular or
30 pedestrian access to other homes and uses unless the property
31 owner makes modifications to such shared driveway or sidewalk
32 that extinguishes such obstruction or the effects of such
33 obstruction.

34 DIVISION X
35 FORCIBLE ENTRY AND DETAINER

1 Sec. 19. Section 648.5, subsections 1 and 3, Code 2022, are
2 amended to read as follows:

3 1. a. An action for forcible entry and detainer shall
4 be brought in a county where all or part of the premises is
5 located. Such an action shall be tried as an equitable action.
6 Upon receipt of the petition, the court shall set a date, time,
7 and place for hearing. The court shall set the date of hearing
8 no later than eight days from the filing date, except that the
9 court shall set a later hearing date no later than fifteen days
10 from the date of filing if the plaintiff requests or consents
11 to the later date of hearing.

12 b. The requirement regarding the setting of the initial
13 hearing in paragraph "a" is not a jurisdictional requirement and
14 does not affect the court's subject matter jurisdiction to hear
15 the action for forcible entry and detainer.

16 3. Service of original notice by mail is deemed completed
17 four days after the notice is deposited in the mail and
18 postmarked for delivery, whether or not the recipient signs a
19 receipt for the original notice. In computing the time for
20 completion of service, the first day shall be excluded and the
21 final day shall be included regardless of whether the fourth
22 day is a Saturday, Sunday, or federal holiday.

23 DIVISION XI

24 ABANDONED MOBILE HOMES

25 Sec. 20. Section 555B.3, Code 2022, is amended to read as
26 follows:

27 **555B.3 Action for abandonment — jurisdiction.**

28 A real property owner not requesting notification by the
29 sheriff as provided in [section 555B.2](#) may bring an action
30 alleging abandonment in the court within the county where the
31 real property is located ~~provided that there is no lien on~~
32 ~~the mobile home or personal property other than a tax lien~~
33 ~~pursuant to [chapter 435](#).~~ The action shall be tried as an
34 equitable action. Unless commenced as a small claim, the
35 petition shall be presented to a district judge. Upon receipt

1 of the petition, either the court or the clerk of the district
2 court shall set a date for a hearing not later than fourteen
3 days from the date of the receipt of the petition, except where
4 there is a lien on the mobile home or personal property other
5 than a tax lien, the court or the clerk of the district court
6 shall set a date for a hearing no sooner than twenty-five days
7 from the date of the receipt of the petition so as to allow for
8 service on the lienholder.

9 Sec. 21. Section 555B.4, Code 2022, is amended by adding the
10 following new subsections:

11 NEW SUBSECTION. 4. If a lien other than a tax lien exists
12 on the mobile home or personal property at the time an action
13 for abandonment is initiated, the personal service pursuant
14 to the Iowa rules of civil procedure shall be made upon the
15 lienholder no less than twenty days before the hearing. The
16 notice to the lienholder shall describe the mobile home and
17 shall state the docket, case number, date, and time at which
18 the hearing is scheduled, and the lienholder's right to assert
19 a claim to the mobile home at the hearing. The notice shall
20 state that failure to assert a claim to the mobile home within
21 the judicial proceedings is deemed a waiver of all rights,
22 title, claims, and interest in the mobile home and deemed to
23 be consent to the sale or disposal of the mobile home. If
24 personal service cannot be completed in time to give the
25 lienholder the minimum notice required by this subsection, the
26 court may set a new hearing date.

27 NEW SUBSECTION. 5. In the event a tenant who was sole owner
28 of a mobile home dies during the term of the rental agreement
29 resulting in the mobile home being abandoned, service shall be
30 made in accordance with section 562B.10, subsection 7.

31 Sec. 22. Section 555B.8, subsections 2 and 3, Code 2022, are
32 amended to read as follows:

33 2. ~~If~~ Except as otherwise ordered by the court, if the
34 mobile home owner or other claimant asserts a claim to the
35 property, the judgment shall be satisfied before the mobile

1 home owner or other claimant may take possession of the mobile
2 home or personal property.

3 3. If no claim is asserted to the mobile home or personal
4 property or if the judgment is not satisfied at the time of
5 entry, an order shall be entered allowing the real property
6 owner to sell or otherwise dispose of the mobile home and
7 personal property pursuant to [section 555B.9](#). If Except as
8 otherwise ordered by the court, if a claimant satisfies the
9 judgment at the time of entry, the court shall enter an order
10 permitting and directing the claimant to remove the mobile home
11 or personal property from its location within a reasonable time
12 to be fixed by the court. The court shall also determine the
13 amount of further rent or storage charges to be paid by the
14 claimant to the real property owner at the time of removal.

15 Sec. 23. Section 555B.9, subsections 1, 2, and 4, Code 2022,
16 are amended to read as follows:

17 1. Pursuant to an order for disposal under section 555B.8,
18 subsection 3, the real property owner shall dispose of the
19 mobile home and personal property by public or private sale in
20 a commercially reasonable manner. If the personal property
21 owner, lienholder, or other claimant has asserted a claim
22 to the mobile home or personal property within the judicial
23 proceedings, that person shall be notified of the sale by
24 restricted certified mail not less than five days before the
25 sale. The notice is deemed given upon the mailing. The real
26 property owner may buy at any public sale, and if the mobile
27 home or personal property is of a type customarily sold in
28 a recognized market or is the subject of widely distributed
29 standard price quotations, the real property owner may buy at a
30 private sale.

31 2. A sale pursuant to [subsection 1](#) transfers to the
32 purchaser for value, all of the mobile home owner's rights
33 in the mobile home and personal property, and discharges the
34 real property owner's interest in the mobile home and personal
35 property, and any tax lien, and any other lien. The purchaser

1 takes free of all rights and interests even though the real
2 property owner fails to comply with the requirements of this
3 chapter or of any judicial proceedings, if the purchaser acts
4 in good faith.

5 4. Notwithstanding subsections 1 through 3, the real
6 property owner may propose to retain the mobile home and
7 personal property in satisfaction of the judgment obtained
8 pursuant to section 555B.8. Written notice of the proposal
9 shall be sent to the mobile home owner, lienholder, or other
10 claimant, if that person has asserted a claim to the mobile
11 home or personal property in the judicial proceedings. If
12 the real property owner receives objection in writing from
13 the mobile home owner, lienholder, or other claimant within
14 twenty-one days after the notice was sent, the real property
15 owner shall dispose of the mobile home and personal property
16 pursuant to subsection 1. If no written objection is received
17 by the real property owner within twenty-one days after the
18 notice was sent, the mobile home and personal property may be
19 retained. Retention of the mobile home and personal property
20 discharges the judgment of the real property owner, and any tax
21 lien, and any other lien.

22 Sec. 24. Section 555B.9, subsection 3, Code 2022, is amended
23 by adding the following new paragraph:

24 NEW PARAGRAPH. *0c.* Third, to satisfy any other lien
25 for which a claim was asserted pursuant to section 555B.4,
26 subsection 4.

27 Sec. 25. Section 562B.10, subsection 7, Code 2022, is
28 amended to read as follows:

29 7. a. If a tenant who was sole owner of a mobile home dies
30 during the term of a rental agreement then that person's heirs
31 at law or legal the personal representative of the decedent's
32 estate, or the landlord shall have the right to cancel the
33 tenant's lease by giving sixty days' written notice to the
34 person's heirs at law or legal the personal representative
35 of the decedent's estate, or to the landlord, whichever

1 is appropriate, and the heirs at law or the ~~legal~~ personal
2 representative of the decedent's estate, shall have the same
3 rights, privileges and liabilities of the original tenant,
4 provided that such heirs at law and personal representative
5 of the estate shall not have the right to occupy or otherwise
6 use the home or mobile home space as a tenant unless approved
7 by the landlord as a tenant. In the event the landlord,
8 after such a written notice is given and the tenant's lease
9 is canceled, brings an action for forcible entry and detainer
10 or action for abandonment, the estate of the tenant and the
11 person's located heirs at law or personal representative shall
12 be named as defendants in the action. The landlord may serve
13 notice upon such defendants pursuant to the method set forth
14 in section 562B.27A, subsection 1, paragraph "c", or by mailing
15 notice by both regular mail and certified mail, as defined in
16 section 618.15, to the defendant's last known address.

17 b. (1) If a tenant who was sole owner of a mobile home dies
18 during the term of a rental agreement resulting in the mobile
19 home being abandoned as provided in section 562B.27, subsection
20 1, and the landlord cannot, despite due diligence, locate such
21 a tenant's heirs at law or personal representative, then the
22 landlord may bring an action for abandonment as provided in
23 section 555B.3, naming as defendants the estate of the tenant
24 and all unknown heirs at law of the tenant, and, upon the
25 landlord's filing of an affidavit that personal service cannot
26 be had on any heirs at law, personal representative, or estate
27 of the tenant, the court shall permit original notice of such
28 action to be served by publication pursuant to subparagraph
29 (2).

30 (2) Publication of original notice shall be made once each
31 week for three consecutive weeks in a newspaper of general
32 circulation published in the county where the petition is
33 filed, pursuant to the Iowa rules of civil procedure. Service
34 is complete after the third consecutive weekly publication.

35 (3) In the event any tax lien or other liens exist on

1 the mobile home, the landlord may proceed with an action for
2 abandonment as provided in section 555B.3, except that the
3 notice shall be provided to the county treasurer as provided
4 in section 555B.4, subsection 3, if a tax lien exists, and
5 personal service pursuant to the Iowa rules of civil procedure
6 shall be made upon any lienholder no less than twenty days
7 before the hearing. Any notice to a lienholder shall state
8 that failure to assert a claim to the mobile home is deemed a
9 waiver of all rights, title, claims, and interest in the mobile
10 home and is deemed consent to the sale or disposal of the
11 mobile home. If personal service upon the lienholder cannot
12 be completed in time to give the lienholder the minimum notice
13 required by this subsection, the court may set a new hearing
14 date.>

15 2. Title page, lines 5 and 6, by striking <the repeal of the
16 manufactured home community and mobile home tax,> and inserting
17 <regulation by counties and cities of continuing nonconforming
18 uses of manufactured, modular, and mobile homes,>

AMY SINCLAIR